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*Attorney for Plaintiff*  
Tracy Rexroat

**THE UNITED STATES DISTRICT COURT**

**FOR THE DISTRICT OF ARIZONA**

**Tracy Rexroat**, an Arizona Resident,

Plaintiff,

v.

**Arizona Department of Education; and,  
State of Arizona, State Board of Education,**

Defendants.

**Case No.**

**VERIFIED COMPLAINT**

**(Jury Trial Requested)**

Plaintiff Tracy Rexroat hereby complains and alleges against the above-named Defendants as follows:

**I. PARTIES, VENUE, and JURISDICTION**

1. Plaintiff Tracy Rexroat (“**Plaintiff**”) is an individual, who at all times relevant hereto, was and is a resident of Maricopa County, State of Arizona.

2. Defendant Arizona Department of Education (“**ADE**”) is an administrative agency created pursuant to A.R.S. § 15-231(A), with authority and responsibility for overseeing and regulating the public school system.

1           3. Defendant State Board of Education (“SBE”) is the governing body for  
2 defendant ADE, as prescribed by A.R.S. § 15-231(B)(1) and Ariz. Const. Art. XI § 2.

3           4. Under the provisions of the Arizona Education Act, A.R.S. § 15-203(B)(2),  
4 SBE may sue and be sued.

5           5. Defendants ADE and SBE, individually and severally, are alleged to have  
6 committed acts/or omissions causing damages and harm to Plaintiff in violation of statutes  
7 and under theories sounding in both contract and in tort, all as further described *infra*.

8           6. Based upon, *inter alia*, such joint and several liability and Defendants’  
9 common course of action, ADE and SBE will be jointly referred to as “Defendants”  
10 throughout the remainder of this Complaint, except where a particular Defendant is  
11 intended.

12           7. At all times material to this Complaint, Plaintiff was employed by  
13 Defendant ADE. All of Plaintiff’s employment activities were conducted within Maricopa  
14 County, Arizona.

15           8. Venue is proper under 28 U.S.C.A. § 1391(b) and 42 U.S.C. § 2000e-5(f)(3)  
16 as the unlawful employment practice of which Plaintiff is complaining was committed in  
17 Maricopa County in the State of Arizona.

18           9. Plaintiff alleges that Defendants have caused damages and injury to Plaintiff  
19 in an amount exceeding \$75,000. This Court has supplemental jurisdiction over  
20 Plaintiff’s state law claims pursuant to 28 U.S.C. § 1367.

21           10. This civil action arises under the laws of the United States. More  
22 specifically, this action is brought pursuant to, *inter alia*, Title VII of the Civil Rights Act  
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of 1964, as amended (42 U.S.C. § 2000e *et seq.*), and the jurisdiction of this Court is invoked to secure protection and redress for deprivation of rights guaranteed by federal and state law, which rights provide for injunctive and other relief for illegal discrimination in employment. This court has jurisdiction pursuant to 42 U.S.C.A. § 2000e-5(f)(3) and 28 U.S.C.A. §§ 1331 and 1343(4).

11. This Court has general *in personam* jurisdiction over resident Defendants. The Arizona State Board of Education exists pursuant to statutory authority provided by the Legislature of the State of Arizona.

12. This action is brought pursuant to, *inter alia*, Title VII of the Civil Rights Act of 1964 (“**Title VII**”), as amended, 42 U.S.C. §2000e *et seq.*, and the jurisdiction of this Court is invoked to secure protection and redress for deprivation of rights guaranteed by federal and state law, which rights provide for injunctive and other relief for illegal discrimination and disparate treatment in employment.

## II. PROCEDURAL COMPLIANCE

13. On or about October 29, 2010 Plaintiff filed a charge of discrimination with the Equal Employment Opportunity Commission (“**EEOC**”), as well as with the Arizona Civil Rights Division (“**ACRD**”), thereby satisfying the requirements of 42 U.S.C.A. § 2000e-5(b), (e).

14. Such charge was filed within one hundred and eighty (180) days of the unlawful employment practices about which she complained.

15. On or about February 17, 2011, the EEOC issued to Plaintiff a Notice of Right to Sue with respect to such charge of discrimination.

1 16. This Complaint has been filed within ninety (90) days of that date.

2 17. Plaintiff's Charge of Discrimination was filed timely.

3 18. That Charge alleges that Plaintiff was paid a lower salary on the basis of her  
4 gender.

5  
6 19. Such conduct constitutes a violation of Title VII of the Civil Rights Act of  
7 1963, 42 U.S.C. § 2000e *et seq.*, as amended ("**Title VII**") and violation of Equal Pay Act  
8 of 1963, as amended ("**EPA**"), against the Defendants.

9  
10 20. The ADE and SBE are both subject to the EPA and to Title VII.

11 21. To the extent such remedies existed and were available, Plaintiff has  
12 properly exhausted her administrative remedies.

13 **III. GENERAL ALLEGATIONS COMMON TO ALL CLAIMS**

14  
15 22. In early 2007, Plaintiff applied to be an Education Program Specialist in the  
16 Career and Technical Education ("**CTE**") section of the ADE.

17 23. Plaintiff was qualified for that position.

18 24. On May 15, 2007 Plaintiff was granted an interview.

19 25. Jason Wojcik ("**Jason**") interviewed for the same position, and the same  
20 time as Plaintiff.

21  
22 26. Plaintiff, Jason, and another candidate all interviewed for the position.

23 27. The ADE judged and scored all interviewees.

24 28. Plaintiff received the highest such score of all interviewees.

25  
26 29. As between Jason, Plaintiff and the third candidate, Plaintiff clearly  
27 possessed superior educational qualifications and experience.  
28

1           30.           As a result, on May 23, 2007, Ms. Jan Brite (“**Brite**”), Director of Career  
2 Pathway, wrote a recommendation memorandum to Tom Horne, Superintendent of Public  
3 Instruction, recommending that the ADE hire Plaintiff “an entrance salary rate of \$43,000,  
4 *which is in alignment with current salaries of the program State Supervisors.*”  
5 (emphasis added). (Attached hereto as “Exhibit A”).  
6

7           31.           Relying upon Brite’s recommendation memorandum, Plaintiff moved  
8 herself cross-country in order to accept the position she earned at ADE.  
9

10           32.           Plaintiff’s starting salary with the ADE was \$43,000.

11           33.           Only later did Plaintiff discover that the ADE paid women less than males  
12 for performing work requiring equal skill, effort and responsibility in its performance.  
13

14           34.           In fact, as of May 23, 2007, male program State Supervisors were not being  
15 paid starting salaries of \$43,000.

16           35.           The ADE paid or pays women less for performing work under conditions  
17 similar to those of the men.  
18

19           36.           The following women work or worked in the same establishment as  
20 Plaintiff: Shea Padilla, Stephanie Hahn and Ruth Kerr.

21           37.           The following women perform or performed jobs similar to that of Plaintiff:  
22 Shea Padilla, Stephanie Hahn and Ruth Kerr.  
23

24           38.           Plaintiff is or was similarly situated to, *inter alia*, the following women :  
25 Shea Padilla, Stephanie Hahn and Ruth Kerr

26           39.           The following men work or worked in the same establishment as Plaintiff:  
27 Jason Wojcik and Jimmy Wojcik.  
28

1           40.       The following men perform or perform or performed jobs similar to that of  
2 Plaintiff: Jason Wojcik and Jimmy Wojcik.

3           41.       Plaintiff is or was similarly situated to, *inter alia*, the following men: Jason  
4 Wojcik and Jimmy Wojcik

5           42.       Women working in the same establishment as Plaintiff, such as Shea  
6 Padilla, Stephanie Hahn and Ruth Kerr, were paid approximately \$43,000 for performing  
7 jobs similar to that of Plaintiff.  
8

9           43.       Men working in the same establishment as Plaintiff, such as Jason Wojcik  
10 and Jimmy Wojcik, were paid more than approximately \$60,000 for performing jobs  
11 similar to that of Plaintiff.  
12

13           44.       Men at the ADE were treated more favorably than similarly situated women  
14 at the ADE.  
15

16           45.       Plaintiff reported to Human Resources that women were being paid less by  
17 ADE as a result of gender-based discrimination.

18           46.       After Plaintiff made that report, Human Resources told her that the amount  
19 of a candidate's immediately preceding salary is what determined the starting salary paid  
20 by ADE.  
21

22           47.       Human Resources claimed that if any gender-based wage differential  
23 existed, it was caused by the immediate past salaries of newly hired men vs. such salaries  
24 of newly hired women.  
25

26           48.       Plaintiff continued reporting to Human Resources that women were being  
27 paid less by ADE as a result of gender-based discrimination.  
28

1           49.       Plaintiff made such reports to Human Resource officers, such as Debbie  
2 Jackson (“**Jackson**”); Barbara Border (“**Border**”), Deputy Director of Certified Teacher  
3 Education; and, Brite.

4  
5           50.       Following Plaintiff’s report(s) to her, Border stated that the ADE’s budget  
6 precluded any pay raises.

7           51.       Border also stated that if the ADE had any gender-based salary disparities, it  
8 was the result of candidate’s salary history.

9  
10          52.       Following Plaintiff’s report(s) to Brite and Jackson, they both stated that  
11 under ADE Guidelines, prior salary history helped determine the starting salary of a new  
12 hire.

13          53.       ADE personnel are not supposed to violate the Department’s “Policy and  
14 Procedures – Personnel Requisitions and Hiring” (the “**Policy**”). (Attached hereto as  
15 “Exhibit B”).

16  
17          54.       ADE personnel are required to follow the Policy.

18          55.       Section II(F) of the Policy states that “[t]he justification for the  
19 recommendation [of salary] should include salary history, experience and education.”  
20

21          56.       Section II (F) requires new hires to satisfy five specific factors before the  
22 ADE can offer to pay such individual a “special entrance rate.”

23          57.       Receiving a “special entrance rate” means that the new hire receives a  
24 higher starting salary.

25  
26          58.       The ADE bases future raises, and bonuses, upon an employee’s starting  
27 salary.  
28

1           59.       When comparing two similar employees (hired into equivalent positions and  
2 under equivalent circumstances), in almost every case, the employee with a higher starting  
3 salary will continue making more money than their comparator through the employees'  
4 time at ADE.  
5

6           60.       Thus, those who start off making more money, are the most likely to end  
7 their careers making more money.  
8

9           61.       Under Section II(F) of the Policy, the ADE cannot offer a "special entrance  
10 rate" to anyone unless and until it analyzes that individual's (i) education, (ii) earning  
11 history, and (iii) position-specific abilities, as well as whether the candidate has any  
12 experience of an unusual and outstanding character.  
13

14           62.       The Policy furthermore obligates the ADE to review the (iv) availability of  
15 qualified applicants, and (v) the position's geographical location before offering any  
16 "special entrance rate" to a candidate (the aforementioned factors are hereinafter referred  
17 to collectively as the "**Factors**").  
18

19           63.       Both Jason Wojcik ("**Jason**") and Jimmy Wojcik ("**Jimmy**") received a  
20 "special entrance rate" when they were hired by the ADE.

21           64.       The ADE did not specifically review the Factors before offering "a special  
22 entrance rate" to Jason.

23           65.       The ADE did not specifically review the Factors before offering "a special  
24 entrance rate" to Jimmy.  
25

26           66.       Under the Factors established by Section II(F) of the Policy, Jason was not  
27 eligible for "a special entrance rate".  
28



67. Under the Factors established by Section II(F) of the Policy, Jimmy was not eligible for “a special entrance rate”.

68. Giving Jason “a special entrance rate” violated Section II(F) of the Policy.

69. Giving Jimmy “a special entrance rate” violated Section II(F) of the Policy.

70. Shea Padilla, Stephanie Hahn, Tracy Rexroat, Ruth Kerr, Jason Wojcik and Jimmy Wojcik were all hired under the same job description

71. Shea Padilla, Stephanie Hahn, Tracy Rexroat, Ruth Kerr, Jason Wojcik and Jimmy Wojcik all perform similar job duties.

72. Shea Padilla, Stephanie Hahn, Tracy Rexroat, Ruth Kerr, Jason Wojcik and Jimmy Wojcik all perform jobs requiring equal skill, effort and responsibility.

73. ADE paid the following salaries as of approximately July 2008:

Name	Salary	Gender
Shea Padilla	\$39,983	Female
Stephanie Hahn	\$43,000	Female
Tracy Rexroat	\$43,000	Female
Ruth Kerr	\$44,290	Female
Jason Wojcik	\$58,500	Male
Jimmy Wojcik	\$60,000	Male

74. None of the four females referenced above were offered “a special entrance rate” by ADE.

75. The two men in the chart were paid more than each and every one of the four women.

76. The men received that higher pay despite the fact that the women have objectively superior qualifications and experience.

1 77. Three of the four females mentioned above had a Master's Degree when  
2 hired by ADE, and the fourth female has 30 years of experience in her field, plus a  
3 Bachelor's Degree.  
4

5 78. Jimmy had little to no experience directly related to his position when he  
6 was hired by the ADE.

7 79. Jason did not have a Master's Degree when he was hired by ADE.

8 80. ADE personnel, such as Border, attempted to explain their discriminatory  
9 treatment away by blaming any salary gaps on "the budget."  
10

11 81. Gender-based pay differentials cannot be explained by "the budget."

12 82. To the contrary, the Policy states that a "special entrance rate request may  
13 be denied due to the budgetary and fiscal constraints it would place on the agency."  
14

15 83. There is no rational, non-discriminatory, non-pretextual basis upon which  
16 ADE could have decided to pay females less due to "the budget" – yet found money to  
17 increase the starting salaries of males from that same budget.

18 84. In its "Position Statement and Response" to the EEOC charge, ADE  
19 admitted that the under the Policy, it considers "salary history, experience, and education"  
20 in making an initial salary determination. (Attached hereto as "Exhibit C").  
21

22 85. Defendants have stated that Jimmy's starting salary was increased to  
23 \$60,000 because he made \$80,000 at his last job.  
24

25 86. Defendants have stated that Jason's starting salary was increased to \$60,000  
26 because he made \$90,000 at his last job.  
27  
28

1 87. Defendants made little to no efforts to verify the prior salary claims of  
2 Jimmy or Jason.

3 88. Defendants did not consider the salary history of female hires, or else  
4 applied different standards when doing so.

5 89. In the alternative, to the extent the gender-based salary gap is actually  
6 caused by Defendants' Policy of taking into account past earnings, the Policy itself is in  
7 violation of Title VII for, *inter alia*, having a disparate impact.

8 90. Plaintiff's gender was a sole and/or motivating factor in Defendant's above-  
9 described conduct.

10 91. Defendant's above-described conduct removed and/or substantially  
11 interfered with work facilities important to the performance of Plaintiff's job duties.

12 92. Defendant's above-described conduct has had a deleterious effect on the  
13 terms, conditions and privileges of Plaintiff's employment.

14 **COUNT I**  
15 **TITLE VII**  
16 **(Gender-Based Discrimination)**

17 93. Plaintiff reasserts and realleges each and every paragraph in this Verified  
18 Complaint as if fully restated herein.

19 94. Defendants discriminated against Plaintiff in violation of Title VII and the  
20 ACRA.

21 95. Plaintiff has been discriminated against on the basis of gender, which is  
22 female.

23 96. Plaintiff is qualified for her job and satisfies all normal job requirements.  
24  
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1 97. Plaintiff has significant relevant experience, appropriate educational  
2 qualifications, and has served the Defendants for three years, in which she had no  
3 employment disciplinary actions.

4 98. Plaintiff was subjected to an adverse employment action.

5 99. Similarly situated males were treated more favorably.

6 100. Defendants committed the acts described in this Complaint oppressively,  
7 maliciously, and with an evil motive, entitling Plaintiff to an award of punitive damages in  
8 an amount appropriate to punish and make an example of Defendants.

9 101. Plaintiff is entitled to recover damages against Defendants, jointly and  
10 severally, for all harm caused by the unlawful practices and discrimination, including  
11 award of backpay, frontpay, liquidated damages, interest, reasonable attorney's fees and  
12 the costs of this action, together with such other and further relief as may be just and  
13 equitable under the law.

14 WHEREFORE, Plaintiff prays for judgment against Defendants as hereinafter  
15 provided.

16  
17 **COUNT II**  
18 **TITLE VII**  
19 **(DISCRIMINATORY PAY &**  
20 **DISPARATE TREATMENT)**

21 102. Plaintiff reasserts and realleges each and every paragraph in this Verified  
22 Complaint as if fully restated herein.

23 103. Defendants discriminated against Plaintiff by, *inter alia*, treating her  
24 differently from, and less favorably than, similarly situated males, and by subjecting her to  
25 discriminatory pay.  
26  
27  
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1 104. Defendants discriminated against Plaintiff by, *inter alia*, providing her with  
2 lower pay than similarly situated male employees on the basis of her gender. This has  
3 been done despite the fact that Plaintiff, and all other female employees similarly situated,  
4 performed duties requiring the same skill, effort, and responsibility as the duties of the  
5 male employees.  
6

7 105. The Defendants' policies, practices and/or procedures have produced a  
8 disparate impact on the Plaintiff with respect to the terms and conditions of her  
9 employment.  
10

11 106. The Defendants' conduct has been intentional, deliberate, willful, malicious,  
12 reckless and in callous disregard of the rights of the Plaintiff.  
13

14 107. Because of the continuous and persistent nature of Defendants'  
15 discriminatory conduct throughout the employment of the Plaintiff, the continuing  
16 violation doctrine applies to all of the violations alleged herein.  
17

18 108. As a result of Defendants' conduct, as alleged herein, Plaintiff has suffered  
19 and continues to suffer harm, including but not limited to lost earnings, lost benefits, and  
20 other financial loss.

21 109. By reason of Defendants' malfeasance, Plaintiff is entitled to all legal and  
22 equitable remedies available for violations of Title VII, including an award of punitive  
23 damages.  
24

25 110. Attorneys' fees should be awarded under 42 U.S.C. § 2000e-5(k).  
26  
27  
28

1 WHEREFORE, Plaintiff prays for judgment against Defendants as hereinafter  
2 provided.

3  
4 **COUNT III**  
**EQUAL PAY ACT**

5 111. Plaintiff reasserts and realleges each and every paragraph in this Verified  
6 Complaint as if fully restated herein.

7  
8 112. Defendants are each an “employer” of Plaintiff within the meaning of the  
9 Equal Pay Act, and have discriminated against Plaintiff by providing her with lower pay  
10 than similarly situated male employees.

11 113. Plaintiff’s gender was the sole and/or a motivating factor in Defendants’  
12 discriminatory denial of equal pay.

13  
14 114. Plaintiff and all other female similarly situated employees performed duties  
15 requiring the same skill, effort, and responsibility as the duties of the male employees.

16 115. The pay differential between the male and female employees was not due to  
17 experience, qualification, seniority, merit, quantity or quality of work, but due to gender.

18 116. Defendants caused, attempted to cause, and are contributing to the  
19 continuation of pay discrimination based on gender, in violation of EPA.

20 117. Defendants knew or should have known, or showed reckless disregard for,  
21 the fact that their conduct was in violation of the EPA.

22 118. As a direct and proximate result of Defendants’ actions, Plaintiff suffered  
23 injury and monetary damages, including but not limited to past and future loss of income,  
24 benefits, expenses, and costs — and is entitled to all available legal and equitable  
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1 remedies, including recovery of attorneys' fees and costs, the precise amount of which  
2 will be proven at trial.

3 WHEREFORE, Plaintiff prays for judgment against Defendants as hereinafter  
4 provided.  
5

6 IV. **JURY DEMAND**

7 119. Plaintiff hereby demands a trial by jury of all issues so triable under federal  
8 or state law.

9 V. **CONCLUSION AND PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff requests that this honorable Court advance this case on  
11 the docket, order a trial at the earliest practical date, and upon such hearing:  
12

- 13 A. Issue an order awarding Plaintiff all direct and consequential damages,  
14 including but not limited to backpay, fringe benefits, and any other  
15 appropriate relief necessary to make Plaintiff whole and compensate her for  
16 the violations of ACRA, Title VII and EPA, all as the harm more  
17 particularly described *supra*;  
18  
19 B. Award damages including general and special damages for Defendants'  
20 tortious conduct as alleged herein and proved at trial;  
21  
22 C. Award Plaintiff the costs of this action, including reasonable attorney's fees  
23 and costs;  
24  
25 D. Award Plaintiff reasonable pre-judgment and post-judgment interest in the  
26 maximum amount allowed by law; and  
27  
28 E. Grant or award Plaintiff with such other legal and equitable relief as this

1 Court deems just and proper.

2 RESPECTFULLY SUBMITTED this 23<sup>rd</sup> day of May, 2011.

3  
4 THE LAW FIRM OF CAMERON HALL  
5 & ASSOCIATES, LLC

6  
7 /s/ Cameron Hall

8 Cameron Hall, Esq.  
9 11811 N. Tatum Blvd.  
10 Phoenix, AZ 85028  
11 *Attorney for Plaintiff*  
12 Tracy Rexroat

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VERIFICATION

Plaintiff Tracy Rexroat declares under penalty of perjury that she has read the foregoing *Verified Complaint* and is familiar with the contents thereof. The matters asserted therein are based on her own personal knowledge, except as to those matters stated upon information and belief, and as to those matters, she believes them to be true.

Dated this 23<sup>rd</sup> day of May, 2011.

  
\_\_\_\_\_  
Tracy Rexroat  
Plaintiff